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PERMANENT MISSION OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

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STATEMENT

BY

THE INDONESIAN DELEGATION TO THE

48TH SESSION OF THE COMMISSION ON HUMAN RIGHTS

ON ITEM 10

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Mr. Chairman,

Speaking at this late stage of our debate on item 10, I shall confine my remarks mainly to the problem of torture, with regard particularly to the report of the Special Rapporteur as contained in document E/CN.4/1992/17 and its addenda. But, first, let me take this opportunity to express to Prof. P. Kooijmans the sincere appreciation of my delegation for the report and for his lucid introductory statement. I would also like to say at the outset that we share the concern of the Special Rapporteur to the effect that torture still is a disturbingly widespread phenomenon, and I even venture to say that often torture is practised by individuals belonging to government circles in an abuse of governmental power. However, we would definitely prefer to be much more cautious when it comes to identifying torture as a deliberate, let alone official, tool of government policy. As far as Indonesia is concerned, our state philosophy, constitution and national legislation all strictly prohibit the practice of torture as a means of extorting information or evidence.

The importance that we attach to the problem of torture has been concretely manifested in the decision of the Indonesian Government to invite the Special Rapporteur on the Question of Torture to visit Indonesia. It has been our sincere expectation to be able to learn and benefit from such a visit in order to eradicate the practice of torture that may exist in my country as in so many other countries in the world. The visit did take place, from 3 to 16 November of last year, and the report is now before us. My delegation has examined the report with keen interest and sincerely appreciates the Special Rapporteur's efforts to produce a critical analysis and to come up with recommendations. It should be taken as perfectly normal if in the course of such an exercise, apart from views on which we find ourselves in agreement and remarks which make us feel encouraged as well as recommendations which we find valuable, there are also points of honest disagreement. But we should be less than candid if we did not say that, regrettably, we also find points which are out of context and procedures which we find improper.

Inasmuch as we take the report in a positive spirit, we do hope that the Special Rapporteur will also accept my observations with an equally open mind.

Mr. Chairman,

To begin with the happier notes, my delegation is encouraged by the findings and conclusions highlighted in the report, to the effect that basic human rights, including the right to physical and mental integrity, are indeed guaranteed by the Indonesian state philosophy, constitution and legislation. Furthermore it is gratifying to note the recognition that Indonesia is constantly improving the legal structure. We also see eye to eye with the Special rapporteur on the need for Indonesia to speed up the process of its ratification of, and accession to, a number of international instruments on human rights. Indeed we have established a working group to study all international instruments with a view to clearing the way for our ratification. We appreciatively noted Prof. Kooijmans' opinion on the necessity for a national commission on human rights since it is in line with the recommendation of our national seminar, held in cooperation with the UN Centre for Human Rights in January 1991.

While taking due note of the Special rapporteur's findings concerning loopholes in our administration of justice and weaknesses in our institutions which prevent us from combating torture more effectively, we detect some shortcomings in his conclusions due to his failure to see that there exist in Indonesia hundreds of legal aids institutions affiliated with universities or law schools as well as other social organisations. With regard to the identified weak point in our mechanism for complaint, although the report does mention several mechanisms for receiving complaints on the abuse of power such as the famous Post Office Box 5000, it does not give appropriate credit to the internal control mechanism within each respective body, nor does it take into account the level of prosecution and punishment of officials who abuse their power as well as the

newly instituted Administrative Court which deals in particular with the abuse of power by government officials. My delegation accepts all those as honest differences which probably stem from the lack of time available to the Special Rapporteur which has prevented him from obtaining as much knowledge and information as he might have wished.

On the other hand, there are aspects of the report that have created problems which are unacceptable to my delegation. The first problem concerns the strange manner in which the report has been published. Although dated 8 January 1992, the report was not actually made available to delegations until 28 January. Strangely enough some items of the report have already been quoted in the Dutch newspaper NRC Handelsblad of 25 and 27 January. We find this procedurally improper and it should be corrected. The second problem which we consider out of context is the alleged violation of the freedom of expression and association contained in the report. It should be clear that the question of the freedom of expression and association is a separate thematic subject and outside the mandate of the Special Rapporteur on the Question of Torture. Furthermore such allegations are not substantiated and will only reduce the value of the report.

Mr. Chairman,

The reference in the report that has created the most serious problem for my delegation is the one related to the Dili incident of 12 November 1991. Here I would like to make it clear that in our view the difficulty was by no means created by the Special rapporteur himself who, though he admittedly went beyond his mandate, could not refrain from mentioning the incident in his report because of his coincidental presence on the spot. Rather the problem emerged because this particular reference has been manipulated by a certain delegation to launch its usual accusations against my country.

It did not come as a surprise to my delegation that the representative of Portugal has dedicated almost his entire lengthy statement under this item to East Timor, trying desperately to convince this Commission of his outdated arguments linking allegations of human rights violations with what he calls "the denial of the right to self-determination". It is evident that the references made do not represent a genuine concern for human rights, but are loaded with political motivation, obviously attempting to cover-up Portugal's own infamous record as the former colonial master of East Timor for more than 400 years. Respecting mandate of this august Commission, I shall not dwell at length on the so-called issue of self-determination. Suffice it to recall a historical fact that Portugal irresponsibly abandoned the territory in mid-August 1975 on the verge of a civil war which it had itself instigated. It is against this unfortunate background that the overwhelming majority of the people of East Timor have long ago exercised their right to self-determination by choosing integration with Indonesia.

With regard to the Dili incident of 12 November 1991, from the beginning we have never denied that such an incident happened. Never have we considered ourselves free from errors. The Indonesian Government at the highest level has even formally and sincerely expressed its deepest regret over the incident and in particular the unfortunate loss of lives that the incident has caused. However, like any other responsible government, my government did immediately and seriously take the necessary measures to address the incident and to redress the situation. Swift and important actions were taken following the recommendation of our National Commission of Inquiry, including bringing to justice all those involved in the incident and suspected of having violated the laws. The process is still going on and will continue to be pursued. In this context the Indonesian Government is also cooperating with the United Nations by welcoming the Special Envoy of the Secretary General, Mr. Amos Wako, who is now in Indonesia to obtain clarifications on the incident. This important visit is now still in progress.

Mr. Chairman,

Like any other tragic incidents, the Dili incident of 12 November 1991 has hurt us. We are now in the sensitive and delicate process of healing our wound. In this regard, what we think we can justifiably and legitimately expect from this august body is a measure of understanding and cooperation in this difficult period. What we precisely do not need in the process is an acrimonious statement like that of the Portuguese delegation, which amounts to, and is deliberately aimed at, perpetuating the wound. Such an act is clearly contrary to the very purpose of this august international forum of cooperation.

Thank you Mr. Chairman.